

The Existence of Party Court in Completing the Internal Disputes of Political Parties in Indonesia (A Case Study of Persatuan Pembangunan Party)

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The Existence of Party Court in Completing the Internal Disputes of Political Parties in Indonesia (A Case Study of Persatuan Pembangunan Party)

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Abstract

According to Law Number 2 of 2011, "Any internal conflict inherent a political party, is resolved by that party's internal organ known as the Internal Dispute Settlement Committee. But unfortunately, not all internal conflicts were ironed out, just as what happened to Persatuan Pembangunan Party. Based on the results of the current study, several factors could be identified to influence the resolution of internal political party disputes, including 1). the inability of the disputed internal party to pay heed to the decision of the Party Court. 2). the government violation of the decision made by the Party Court with biased interference. 3). There is doubtful neutrality considering the membership of the Party Court who comes from internal political parties. 4). Not considering the Party Court's decision while adjudicating disputes over the management of political parties.

Keywords: Party Court, Decision, Final

Abstrak

Menurut Undang-Undang Nomor 2 Tahun 2011, "Setiap konflik internal yang melekat pada suatu partai politik, diselesaikan oleh organ internal partai tersebut yang dikenal sebagai Komite Penyelesaian Perselisihan Internal. Namun sayangnya, tidak semua konflik internal dapat diselesaikan, seperti yang terjadi pada Partai Persatuan Pembangunan. Berdasarkan hasil penelitian ada beberapa faktor yang berpengaruh dalam penyelesaian sengketa internal partai politik antara lain adalah 1). Tidak patuhnya pihak-pihak yang bersengketa di internal partai politik terhadap keputusan Mahkamah Partai. 2). Tidak patuhnya pihak pemerintah terhadap keputusan Mahkamah Partai dan ada kecenderungan ikut intervensi masalah internal partai politik dengan cara mengakui salah satu pihak yang dekat atau yang mendukung pemerintah dalam bentuk pengesahan kepengurusan partai politik. 3). Pada umumnya keanggotaan Mahkamah Partai berasal dari internal partai politik sehingga diragukan netralitasnya. 4). Ada kalanya pengadilan tidak menjadikan

Kata kunci: Mahkamah Partai, Putusan, Final

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Introduction

The 1945 Constitution of the Republic of Indonesia has provided firm guarantees in terms of independence. Paragraph 28E of the article (3) affirms that "Everyone has the right to associate, assemble, and issue their opinion". This article contains a more assertive rule which guarantees more freedom of association compared to its original provisions before the amendment.

The freedom of association can be defined as one license to do as one pleases and the ability to form an association or union together with other people. Political parties,

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as a kind of association, will be the focus of this research, this is because they have the right to organize and gather people into believing in an ideology. A political party is an institutionalization of the citizen's freedom to organize and assemble which is guaranteed by the Constitution. This means, that it functions to accommodate the rights belonging to every citizen or assembly (Suwito, 2017).

Through the political parties, citizens could express their values, beliefs and their objectives more systematically. However, the principle and activity of political parties fail to contradict the ideology of the state Pancasila. If that happens, the government can submit dissolution to the Constitutional Court (Suparto, 2017). Political parties are a very important pillar whose institutional degree needs to be strengthened in every democratic political system (Zakaria, 2016).

A decade after the reform era, the Indonesian political system was marked with the presence of new parties. A good number of these new parties adopted the ideology of the post-democracy party with entrepreneurs and businesses playing a large role (Noor, 2017). Miriam Budiardjo defined political parties as an organized group whose members have the same orientation, values, and ideals. The purpose of the group is to gain power and seize a high-ranking political position (Budiardjo, 2008). Owing to these two purposes, it is quite natural for conflicts to arise which most times lead to divisions within their internal management.

Several factors (internal and external) led to internal party conflicts during the reform. The internal factors include the party ideology, institutionalization of personal and oligarchic leadership, and coalitions. While the external factors are the ineffectiveness of formal legal rules, as well as a combination of direct election systems such as the open proportional and extreme multiparty systems (Budiarti, 2017).

Since the *orde baru era* (Soeharto era) until recently, several laws have been issued which related to political parties including; Law Number 3 of 1975 concerning Political Parties and Work Groups, Law Number 3 of 1985 with regard to Amendments of Law No. 3 of 1975, Law Number 2 of 1999, Law Number 31 of 2002, Law Number 2 of 2008 and Law No. 2 of 2011 all concerning the Political Parties. The last three laws have been regulated on how to resolve internal conflicts within the political parties. According to Law No. 3, of article 32 paragraph (2) of the 2011 constitution, "the internal disputes within a political party are settled by a political party court or other designation formed by them." Paragraph (5) mentioned that the decision of a political party court is final and internally binding in the case of a management dispute. The issue of party management is a technical problem that is rarely known by the outsiders. Therefore, if a misunderstanding occurs, leaving the internal party officials to resolve it, will expedite the process, because settling it through the court will extend the problem (Rachman, 2016).

Although the legislation clearly regulates it, these internal disputes are sometimes prolonged before a resolution is reached. An example is what happened to one of the oldest parties in Indonesia, *Persatuan Pembangunan Party* (PPP). In the dispute between

the strongholds of Romahurmuziy (National Conference of Surabaya) and Djan Faridz (National Conference of Jakarta), the Sharia Court of this party processed and made a decision. One of which is that within 7 (seven) days, both fractions should hold a joint national conference; else the court would take over the duties and responsibilities of the party's central board (DPP). However, the decision was not heeded by the parties involved in the dispute. Even though Law Number 2 of 2011 expressly states that the decision of a political party court is final and binding. Based on the description above, the author is interested in conducting research with the title "The Existence of the Party Court in Resolving Internal Disputes of Political Parties in Indonesia (A Case Study of the Persatuan Pembangunan Party)".

Discussion

The Settlement of Political Parties Disputes Based on the Constitution

Institutionally, political parties are defined as a civil legal entity established by a group of people with common objectives and goals, publicly aspiring for positions in the government. For this reason, the institutionalization of political parties is important in creating stable democratic governance. Political parties as organizations are always faced with conflicts that often end with a division. The party institutions and instruments often fail to resolve these conflicts; hence, they are protracted, prolonged, and unproductive for the nation.

For this reason, the government and the House of Representatives (DPR) through their authority have regulated the Laws of political parties, starting with Law Number 31 of 2002, Law Number 2 of 2008 and 2011. The last law stipulates that the settlement of internal conflicts of political parties is resolved by party internal organs known as the Party Court. This system compares 3 (three) laws in settling internal political party disputes as follows:

First, The Law Number 2 of 2011 concerning Amendments down to Law Number 2 of 2008 with reference to Political Parties. These laws are regulated in articles 23, 24, 25, 26, 32 and 33 as follows:

Article 23

- (1) The change in political parties management at each level is carried out in accordance with the Statutes and Bylaws
- (2) The new management structure of a political party at the central level is registered to the Ministry no later than 30 (thirty) days after its formation.
- (3) The composition of new management for political parties as referred to in paragraph (2) shall be stipulated by a Ministerial Decree no later than 7 (seven) days from the receipt of the requirements.

Article 24

In the event of a controversy over the management of a political party resulting from its decision-making from the apex leaders, the Minister's approval cannot be made until the dispute is resolved.

Article 25

The political party fall-out as referred in Article 24 occurs if the change in management is rejected by at least 2/3 (two thirds) of the participants.

Article 26

- (1) The members of political parties who opt out or are dismissed from their party cannot form another political party.
- (2) In the event that the same management and/or political party are formed as referred to in paragraph (1), its existence is not recognized by this law.

Article 32

- (1) The political party disputes are resolved by internal parties as stipulated in the Statutes and Bylaws
- (2) The settlement of internal political party controversy as referred to in paragraph (1) shall be carried out by a political party court or other designation formed by it.
- (3) The composition of the political party court or other designation as referred to in paragraph (2) shall be submitted by its leaders to the Ministry
- (4) The settlement of internal political party disputes as referred to in paragraph (2) must be completed no later than 60 (sixty) days
- (5) The decision of the Political Party Court or other designation is final and internally binding in the case of managing a controversy.

The Explanation of Article 32 Paragraph (1):

"Political party disputes" are defined as:

- (1) Disputes relating to management;
- (2) Violations of the rights of members of political parties;
- (3) Dismissal for no apparent reason;
- (4) Authority Abuse;
- (5) Financial accountability; and/or
- (6) Objections to decisions of political parties.

Article 33

- (1) In the event that a dispute settlement as referred to in Article 32 is not achieved, the settlement shall be carried out through the District Court
- (2) The decision of the District Court is final, and the cassation can only be submitted to the Supreme Court
- (3) The case as referred in paragraph (1) shall be settled by the District Court no later than 60 (sixty) days after the case lawsuit is registered in the Registrar's Office and by the Supreme Court no later than 30 (thirty) days after the cassation is registered.

Second, Law Number 2 of 2008 concerning the Political Parties. Law No. 2 of 2008, regulation is illustrated in articles 23, 24, 25, 26, 32 and 33 as follows:

Article 23

The change of political parties management at each level is carried out in accordance with the Statutes and By laws:

- (1) The new management structure of a central-level political party is registered to the Department not later than 30 (thirty) days as of the change of management

- (2) The composition of the new management as referred to in paragraph (2) shall be stipulated by a decision of the Minister no later than 7 (seven) days from the receipt of the conditions.

Article 24

If there is a misunderstanding over the management of a political party resulting from decisions, the Minister's approval cannot be made until the dispute is resolved.

Article 25

The political party management controversy as referred to in Article 24 occurs if the change of management is rejected by at least 2/3 (two thirds) of the top decision-making participants.

Article 26

- (1) The members of political parties who resign or are dismissed cannot form the same political party.
- (2) If the same management and/or political party is formed as referred to in paragraph (1), its existence is not recognized by this Law.

Article 32

- (1) Political party fall-outs are resolved by consensus
- (2) If a consensus agreement as referred to paragraph (1) is not reached, then the resolution shall be taken to a court.
- (3) The settlement of disputes outside the court as referred to paragraph (2) can be carried out through the reconciliation, mediation, or arbitration of political parties whose mechanisms are regulated in the Statutes and Bylaws

Article 33

- (1) The cases of political parties relating to the provisions of this Law are submitted through the District Court.
- (2) The decision of the District Court is the final, and the cassation can only be submitted to the Supreme Court
- (3) The case as referred to in paragraph (1) shall be settled by the District Court no later than 60 (sixty) days after the case lawsuit is registered in the Registrar's Office and by the Supreme Court no later than 30 (thirty) days after the cassation is registered.

Third, Law Number 31 of 2002 concerning Political Parties. Law Number 31 of 2002, regulation in Article 16 is as follows:

Article 16

- (1) The cases of political parties relating to the provisions of this Law are submitted through the District Court
- (2) The decision of the District Court is final, and the cassation can only be submitted to the Supreme Court
- (3) The cases as referred to in paragraph (1) are settled by the District Court for a maximum of 60 (sixty) days and by the Supreme Court no later than 30 (thirty) days.

As long as it is not regulated separately in this Law, the procedure for resolving political party disputes is carried out in accordance with the applicable procedural law. From the three laws above, it could be seen that the most complete set of dispute resolution for political parties is in Law Number 2 of 2011, which regulates the party organs that function as institutions for resolving internal political party controversies. The birth and existence of party courts are motivated by the awareness and saturation of parties that are always entangled in prolonged internal conflicts. So far, several alternatives provided by the legislation through the judiciary often complicate and extend the settlement time. This upheaval and saturation were then captured by the government and the House of Representatives to form internal organs of political parties that could resolve conflicts. Institutionally, the party court is an internal judicial institution of political parties. The formation of a party court is a state delegation placed in the party structure (Permana, 2016). However, even though the legislation has regulated how to resolve internal political party conflicts, its implementation is not as expected. Most of these fall-outs, especially those related to management, remain complex and prolonged. For example, a case can be conveyed with what happened to the Persatuan Pembangunan Party.

Political Party Court

The Law on Political Parties has mandated parties to form courts as part of their internal organ. This is intended to resolve internal controversies in political parties, especially those related to management disputes. However, the law does not explain the role of the party court and is also allowed to use terms or names other than that of the party court. Because of these provisions, political parties in Indonesia use different names as follows:

First, *Demokrat Party*. Article 22 paragraph (1) of *Democrat Party Statutes* "The Honorary Council is the board in charge of the decision-making process to impose sanctions and or resolve party internal disputes over the supervisory commission report".

Second, *Keadilan Sejahtera Party*. Article 32 of *Keadilan Sejahtera Party Statutes*. "Majelis Tahkim or Tahkim Assembly is the organizer of the party's imperial duties regarding the organizational structure and management, the examination of members suspected of violating party regulations, conducting a judicial review, giving an interpretation of party regulations and deciding on the best way to settle disputes".

Third, *Kebangkitan Bangsa Party*. Article 46 paragraph (2) *Kebangkitan Bangsa Party Statutes*, "Majelis Tahkim or Tahkim Assembly is a special ad hoc institution within a party that has the authority to receive complaints, examine and hear every case and or complaint submitted by the independent and professional party members"

From the description above, it could be concluded that there are still different arrangements between political parties as a result of the freedom given to regulate its existence. The freedom based on the Political Party Law is an open legal policy, which can be positive with respect to the sovereignty of political parties or dependent on the

will of the political parties so that they can benefit certain groups. For this reason, strengthening the Political Party Court should be done by making more detailed arrangements with respect to the law which will provide them with a standard format and form that guarantees the independence, credibility, and reliability of the Political Party Court. This is an effort by Political Party Court to be able to resolve internal party controversies, especially those related to management (Susanto, 2017).

As previously explained, the court is a very special internal institution of all political parties. This is because even though it is within and is formed by a civil legal entity, it has the authority to settle internal political party disputes while abiding by the laws and regulations. The legislation is Article 32 paragraph (2) of the Law on political parties which regulates as follows: "The settlement of internal political party disputes as referred to in paragraph (1) is carried out by a court or another political party." In addition, the types of internal disputes based on Article 32 paragraph (1), allows for new types of disputes beyond the above mentioned six types. Furthermore, steps taken by these parties in resolving (examining and adjudicating) disputes are also not limited.

Based on the authority and law, the party court will examine and issue a decision to resolve their internal differences. The provisions of a decision are "final and internally binding" in the case of controversies relating to management.

Article 32 paragraph (5) does not clearly define the meaning from "final and binding". Therefore, it is difficult to interpret those two words using authentic interpretation from the Law on Political Parties. In addition, the word "final and binding" in this article seems to contradict that of Article 33 which allows for the continued settlement of internal political party disputes to district courts. Even the decisions made by the district court can be appealed to the Supreme Court of the Republic of Indonesia; therefore, the decision of the political party court cannot be referred to as "final" if further legal remedies can still be taken (Suwito, 2017).

From the meaning of "final and binding" above, it can be known that the decision (*beschikking*) of the Minister of Law and Human Rights regarding the ratification of political party composition is a declarative administrative decision. It can only affirm something that has been decided internally by political parties or judicial institutions without being able to change or interfere with the substance at all. Therefore, the duty of the Minister of Law and Human Rights is actually quite simple as they only need to see the verdict of the party court and make a decision without being influenced.

The declarative decision is also in line with legal politics regarding post-reforms, which requires these parties to intervene the government power. It is where one of the efforts made relocate a party from the Ministry of Home Affairs to that of Justice (now the Ministry of Law and Human Rights). The background of this transfer consideration is that there is an assumption that the Ministry of Law and Human Rights will think and act more legally in ratifying the composition of political party's management than the Ministry of Home Affairs. Therefore, they can carry out their functions without any consideration or political interests. (Suwito, 2017)

Besides that, the issue related to the party court, and laws do not regulate that of the procedural law. In the law, it is only regulated regarding the period of completion, which is a maximum of 60 (sixty) days, as well as the nature of the decision of the party court. It is likely to provide an opportunity for internal political parties to make their own law. This can be understood because the administrators and members of political parties are certainly people who are most aware of the conditions and customs in political parties, including mechanisms and procedures that can be effectively implemented in resolving internal disputes.

Because there is no regulation related to procedural law, it can be influenced by the statutes and by-laws or regulations made by political parties themselves. But the arrangement may not contradict with the provisions of the law. One example is related to a predetermined time period of 60 (sixty) days.

The Internal Disputes of Persatuan Pembangunan Party

First, The Chronology of Disputes. The internal conflict of *Persatuan Pembangunan* Party (PPP) began before the 2014 Presidential Election was held. It was caused by the different opinions in determining the support for the Presidential Candidates at that time. The General Chairman, Suryadharma Ali, who decided that PPP supports the Prabowo-Hatta Pair, was criticized and rejected by the party elite. After the presidential election which saw the defeat of Prabowo-Hatta, this conflict was intensified. The following is the chronology of the PPP Internal conflict:

April 19, 2014

The PPP National Meeting of the General Secretary Romahurmuziy was held. There the party decided to temporarily dismiss Suryadharma Ali as their Chairperson with Emron Pangkapi, the party's Daily Executive (Plh) replacing him. A number of cadres who were fired by Suryadharma also were restored.

September 10, 2014

The daily meeting of DPP PPP decided to dismiss Suryadharma Ali. This decision was supported by 28 DPW. In his place, Emron Pangkapi was appointed as the executive director of the PPP General Secretary.

September 12, 2014

Suryadharma Ali stated that his dismissal was illegal as is tenure was meant to end in 2015. He returned to seat and dismissed the daily administrator who fired him.

October 11, 2014

The Party Court led by its chairman K.H. Maimoen Zubair held a meeting and issued 8 decisions, one of which was to hold the *Mukhtamar Islah* or Islah Congress.

October 15-17, 2014

A congress was held by Romahurmuziy at the Empire Palace Surabaya. In the Congress, Romahurmuziy was elected by acclamation as the General Chairperson of the PPP.

October 28, 2014

Two days before the Congress of Suryadharma Ali stronghold, the Ministry of Law and Human Rights ratified the management of the Romahurmuziy's with Decree No. M.HH-07.AH.11.01 of the 2014 law in accordance with a change in management of the *Persatuan Pembangunan* Party (PPP). According to the minister, Yasonna Laoly, he didn't want the conflict to drag on.

October 29, 2014

Suryadharma Ali stronghold filed a lawsuit to the court to sue the decree of Ministry of Law and Human Rights which authorized the management to Romahurmuziy as the general chairman.

October 30– November 2, 2014

Suryadharma Ali held a congress in Jakarta. The result was that Djan Faridz was elected as the general chairman of the Jakarta congress version of the PPP.

February 25, 2015

The State Administrative Court granted the petition filed by the Djan Faridz stronghold and canceled the Ministry of Law and Human Rights Decree which ratified the management of Surabaya Conference.

July 10, 2015

The High State Administrative Court accepted the appeal filed by the Romahurmuziy's and annulled the decision of the State Administrative Court to cancel the Surabaya management office.

October 22, 2015

The Supreme Court granted the appeal filed by Djan Faridz's stronghold and canceled the Ministry of Law and Human Rights Decree which ratified the Romahurmuziy stronghold congress. With this decision, PPP was in the status quo and was returned to its previous state before the decree.

April 9, 2016

In the congress VIII of PPP held in Hajj Dormitory, Pondok Gede, Jakarta, Romahurmuziy were chosen by acclamation to become the PPP Ministerial Council from 2016-2021. The meeting which was rejected by the Djan Faridz faction was opened by President Jokowi and closed by Vice President Jusuf Kalla.

April 27, 2016

The Ministry of Law and Human Rights affirmed the management of the PPP VIII Congress at *Asrama Haji, Pondok Gede, Jakarta* led by Romahurmuziy. This was stated in an M.HH-06.AH.11.012016 letter.

November 22, 2016

The State Administrative Court supported the Djan Faridz faction of the PPP and ordered the cancellation of the Ministry of Law and Human Rights Decree concerning the ratification of the party's management committee at Pondok Gede led by Romahurmuziy. The Romahurmuziy stronghold then appealed the decision.

February 23, 2017

The High Administrative Court granted an appeal filed by PPP in Romahurmuziy's stronghold.

December 4, 2017

The Supreme Court rejected Djan Faridz's PPP appeal and strengthened that of the High Administrative Court with the legal management results of Mukhtamar Pondok Gede, led by Romahurmuziy.

Second, The Decision of Persatuan Pembangunan Party (PPP) Court. The Sharia Court of *Persatuan Pembangunan* Party has held a special session to resolve the internal conflict ⁵ PPP. The Party Court finally made a verdict on the party's internal case Number 49 / PIP / MP-DPP.PPP / 2014 on 11 October 2014.

The following is the contents of the PPP sharia court decisions:

- a. The Daily Executive Board of PPP for the 2011-2015 periods was in line with the results of the 2011 Mukhtamar VII PPP Decree in Bandung with Suryadharma Ali as the general chairperson and Secretary General Romahurmuziy.
- b. The disputed parties must resolve the internal conflict of PPP Daily Committee, like the fatwa of the Sharia Assembly outlined in the PPP Sharia Council Statement dated September 22, 2014, and signed by the leader of the Sharia Council Maimoen Zubir, and Sharia Assembly Secretary Anas Thahir.
- c. All party-level policies and activities at the national level are only valid if carried out by the Daily Executive Board members of the PPP as referred to number 1 (one) above including the implementation of the VIII PPP Conference
- d. All the decrees regarding dismissal and/or appointment of DPP, DPW, DPC and PPP membership not signed by General Chairperson Suryadharma Ali and Secretary General Romahurmuziy, have been used since it was published September 9, 2014, until the Party Court declared it invalid.
- e. The VIII Congress of PPP must be held by the central board which is preceded by the DPP Daily Executive Board Meeting to form the committee and determine the place for Mukhtamar. The invitation and other letters relating to the implementation of the VIII Congress must be signed by General Chair Suryadharma Ali and Secretary General Romahurmuziy. If it is not carried out within 7 days after the reading of the Decision of the Party Court, the Sharia Assembly takes over the duties and responsibilities of the Daily Executive Board of the PPP to hold a Meeting that will determine the time and place for the VIII PPP Conference.
- f. Ordering the disputed parties, all members, and administrators at all levels of the DPP, DPW, DPC, PAC, and PR of PPP to obey and implement this decision.
- g. Expect the top members of the PPP to oversee the implementation of the Party Court's decision to regain its integrity.
- h. Asking all parties, especially government agencies, to obey the rule of the Party Court for the benefit of the Republic of Indonesia.

Even though the Party Court has issued a decision, which is final as stipulated by law, it wasn't obeyed by both factions. The party court issued a decision by giving 7 days to the disputing parties to hold the *Islah* Conference, but Romi's stronghold actually held a conference first in Surabaya from 15-17 October 2014 ignoring the rule of the party court. This incident was immediately followed by the Suryadharma Ali's faction who held a rival meeting in Jakarta. This was, however, exacerbated by the intervention of the government by ratifying the management of the PPP Surabaya Conference led by Romahurmuziy through the Decree of Ministry of law no. M.HH-07.AH.11.01 2014 dated

October 28, even though it was clear that the Romahurmuziy stronghold had ignored the verdict of the Party Court. This is done by the government because indeed the PPP version of Romahurmuziy is in the stronghold of the Indonesian ranks or the stronghold of the Jokowi government. The government should be a mediator and neutral at handling these controversies to avoid prolonging and protracting it. Because after all, if political parties continue to dispute, then directly or indirectly, it will disrupt national stability, which in turn will adversely affect the government.

Likewise, the court competency will shift from the judicial mechanism to resolve internal political parties' disputes, to the state administrative court. This system automatically closes the new hopes for institutional strengthening and party autonomy in resolving these disputes through internal justice mechanisms. Their energy will be channeled to resolving these fall-outs rather than consolidating the tasks of institutionalizing parties as a connector for people's aspirations (**Firdaus & Kurniawan, 2017**).

The dualism of their management does not only damage the internal conditions but can also threaten the democratization process in Indonesia, especially during the election. It is related to the state institutions which fill the positions through involving political parties. Therefore, strengthening their institutionalization is a real effort to respect their sovereignty and independence, thereby, preventing the dualism of management (**Susanto, 2017**).

Another impact of the internal conflict within political parties is the disruption of party recruitment and cadre. When an internal conflict takes place, the division of structures occurs not only at the national level management but also to the regions. The party no longer focuses on recruiting and regenerating, but on ways to dismiss and revoke the functions of members who were considered defiant from the political ruling elite. The division of the management structure down to the lower level also provides difficulties when conducting political recruitment, especially when the regional head elections (*Pilkada*) will take place. The case of the *Golkar* and PPP parties that were unable to take part in the 2015 simultaneous regional elections in several regions is a clear example. PPP and *Golkar* were unable to nominate regional heads because they did not fulfill the requirements to provide candidates for the DPP, which at that time was managed by the commission due to the conflict.

Still related to electoral aspects, the internal party conflicts can also disrupt the party's performance and trigger the transfer of cadre votes during the election. Cadres are also reluctant to choose the party because they are unable to maintain party stability or cannot function optimally due to the conflict (**Budiarti, 2017**).

The position of the party court in resolving internal disputes leaves a conceptual dilemma. The stereotypes of party courts as part of political parties still leave the problem of impartiality as internal justice in resolving controversies. The assembly members elected to cause the party courts to be seen as part of the poles of internal conflict. The objectivity and impartiality in deciding disputes are greatly reduced by the

opposite dialectics of conflict poles or the dominant power in political parties. This has become an endemic problem and also the main obstacle for using the party court as an internal mechanism for independent, fast, simple, secure, and unbiased dispute resolution for strengthening the autonomy and party institutions (Firdaus & Kurniawan, 2017).

Associated with cases of disputes that occur in *Persatuan Pembangunan* Party (PPP), the government should be neutral. For instance, when the PPP stronghold Romahurmuziy submitted ratification as the results of the Surabaya conference, the ministry of law and human rights failed to ratify it. Indeed, they have the attributive authority to authorize the management of political parties, but there are signs that must be obeyed by them. Firstly, the authority of the Minister of Law and Human Rights can be carried out in normal circumstances or when there is no dispute between the management of the political party concerned. If there is still a dispute, the minister may not issue a decision until the dispute is over nor has permanent legal force. Secondly, the authority of the ministry of law to record changes in the management of political parties is declarative. In Article 54, the Government Administration Act distinguishes decisions into 2 (two) namely constitutive and declarative decisions. In his explanation, it is stated that constitutive decisions are those that are of an independent nature by Government Officials. Whereas the declarative decisions are those that are authoritative after going through a discussion process at the level of government officials who determine decisions that are constitutive. In the case of recording changes, constitutive decisions are not issued by Officials but by the Panel of Judges of the Party Court. In other words, the declarative authority of this ministry is only the authority of the "stamp" of the decision of the Political Party Court. Thirdly, the authority of the ministry of law and human rights is passive, which means that the Minister must wait for the request of the relevant political party management before proceeding. On the contrary, they may not actively send a letter asking the political party management to immediately submit a request to record changes as this may create a partial impression (Permana, 2016).

Owing to the fact that the Surabaya conference conducted by the Romahurmuziy stronghold contradicted the ruling of the PPP Party Court, the government (the Ministry of Law and Human Rights) conducted a decision of the Party Court guaranteed by law. In addition to the disputing parties and the government, the judiciary sometimes does not make the party court ruling a consideration while making decisions. This can be seen in the appeal decision of the State Administrative High Court that granted the request of PPP Romahurmuziy.

In fact, the settlement of internal disputes within the *Persatuan Pembangunan* Party (PPP) through the party court was the only way to resolve internal disputes (Purba, 2017). Although the settlement has been resolved, the decision is not adhered to. Therefore, they still have to make other efforts to resolve the fall-outs of their political parties (Leonardo, 2016). Furthermore, it is necessary to revitalize the party court, and in order to optimize its function as an efficient and effective mechanism; the institutional

reformulation is needed to clarify and reinforce the position of the party court in two steps. The first is to overcome the internal problems by repositioning the party court as an independent judiciary separate from the internal political parties. Secondly, the reformulation of the court's ruling related to the settlement of management disputes, internally and externally (Firdaus & Kurniawan, 2017).

The purpose of the legislators regarding political parties is to carry out a solution for controversies regarding management. The party cannot run if the legal efforts drag on and the disputes will not lead to stagnation. Therefore, a tap is opened for legal remedies to the District Courts that must be decided and resolved within a maximum of 60 (sixty) days with the Supreme Court deciding and completing within a maximum of 30 (thirty days).

In its practice, the assumptions that make up the laws of the political parties turned out to be inaccurate. This is because disputes related to management, had a tendency for political parties to resolve it objectively since the party courts also come from within. Even if they are forced to decide, the decision is believed to be partial. This phenomenon is in accordance with the principle of *Judex in rex* which means that no one can be a good judge on himself; therefore, the judicial person of judges must resign from the obligation if there is a conflict of interest of the judge either directly or indirectly towards the examined case (Permana, 2016).

Third, The Comparison with the Decision of *Golongan Karya* Party Court. In making decisions, different opinions from the 4 members of the Party Court of *Golongan Karya* on the petition were sought. Therefore, there is no unity of opinion in resolving disputes regarding the validity of both National Conferences of the *Golkar* Party IX.

The opinions of Muladi and HAS Natabaya party court members are as follows;

- 1) Avoid the law which states that the winner takes everything (the winner takes all)
- 2) Those who are fired should be rehabilitated
- 3) Loses should be properly managed
- 4) The losers should promise not to form a new party

The opinions of the Jasri Marin and Andi Mattalata party members are as follows:

- a) Authority should be granted by the court to resolve a dispute with a final verdict which specifically concerns management due to it consists of figures who understand the party's internal conditions.
- b) Members should carry out disputes very wisely by not only considering the juridical aspects, but also the sociocultural and sociopolitical aspects.
- c) There was chaos in *Golkar* Party General Assembly caused as a result of the succession process of the national leadership starting from general elections to the inauguration of the President. The coincident time certainly opens up the opportunities for biased thoughts that can affect its internal leadership succession.

- d) To maintain the independence of the Golkar party court, in terms of internal leadership succession, their general agenda should not coincide with the succession process. At least 2.5 years should be given for the party to prepare for the elections.
- e) By looking at the upcoming national political agenda, both at the general, legislative and presidential elections which is likely to fall in 2019, the Court argues that the Golkar Party must have preparations no later than October 2016
- f) In preparing for the new leadership of Golkar in October 2016, there is a need to unite all parties guided by Law, with regards to objectives, tasks, and functions
- g) The *Golkar* IX National Conference in Bali was held from November 30 to December 4, 2014, with a General Chair chosen by acclamation. However, the process was felt to be undemocratic, and not transparent.
- h) The implementation of the Bali National Conference which was felt to be undemocratic, not aspirational, not transparent as a mandatory requirement in party management by Law No. 2 of 2011 concerning Amendment to Law No. 2 of 2008 concerning Political Parties, particularly Article 13 and the values of the Golkar Party formulated in the Articles of Association due to the alignments of the organizers revealed in the trial and admitted by the Respondent III
- i) The Golkar IX National Conference which took place in Ancol, Jakarta with all its shortcomings and criticism of its legitimacy carried out democratically and transparently in line with the election process.
- j) Based on the opinions above, the dictum in the subject matter of the application is as follows:
 - 1) To grant the petition selectively accept the Golkar Party leaders from the Ancol National Conference under the leadership of Br. Agung Laksono, with the obligation to accommodate its cadres from the results of the Bali National Conference who met the criteria of Achievement, Dedication, Loyalty and Non-Disappearance (PDLT), with the main task of party consolidation, from Regency/City, Provincial level and the Golkar Party National Conference at the latest in 2016, simultaneously consolidating the other party equipment.
 - 2) To mandate the Court to monitor the consolidation process until completion in October 2016.

Regarding the dispute that occurred within the *Golkar* party, it was settled in accordance with the law. However, several problems such as the form and decisions of party members failed to solve the inconsistency. This is different from what was experienced by the *Persatuan Pembangunan* Party (PPP), though both disputes were prolonged and protracted even though it had been processed and a verdict given by the court.

Political party courts are not only concerned with strengthening institutions but are obedient to decisions. The national awards are not only carried out by the Supreme

Court through its decisions but are also conducted⁴ by the Government (Ministry of Law and Human Rights) as a state representative that provides administrative legalization to political parties. In addition, the most important things are the respect and internal compliance of political parties to court decisions without which they wouldn't be strengthened. It will also prolong the internal conflicts and even lead to the establishment of new political parties by the losing groups. If this occurs, the party involved will not participate in the election at both national and local levels. The effort to strengthen the political party court was actually included in the amendment to the Law on Political Parties. Therefore, there will be a similar format and minimum principles in the formation of political party courts (Susanto, 2017). Several constituents strengthened the Political Party Court as contained in Decision No. 78/PUU-XIII/2015 which include; (1) permanent nature not ad hoc; (2) its formation is in the highest party forum; (3) the judge must be capable and acceptable to all parties; (4) the need for independent and non-partisan external engagement⁶.

Fourth, The Nature of the final and binding decisions of the Constitutional Court, Arbitration and the Consumer Dispute Settlement Agency (BPSK). Regarding the nature of the final court verdict, the decision can be compared and aligned with those of the state institutions, including the Constitutional Court, Arbitration and Consumer Dispute Settlement Agency (BPSK).

The final⁶ decision can be compared to that of the Constitutional Court's (MK). According to article 10 paragraph (1) of Law Number 24 of 2003, the final verdict is made by the constitutional court.

Its decision is directly obtained legally (Chaidir & Suparto, 2017). Literally, the final and binding decision of the Constitutional Court has its own legal meaning. The phrase "final" in the Large Dictionary of Indonesian is interpreted as "the last of a series of examinations", while the binding phrase is interpreted as "tightened", "united". Starting from this literal meaning, the final and binding phrases, interrelated together with two sides of the coin, means the end of a process of examination, has the power to tighten or unite all wills and cannot be denied. Based on the literal meaning above, if it is associated with the final and binding nature of the Constitutional Court decision, it means that all possibilities for legal remedies have been closed. When the decision is pronounced in a plenary session, then a binding force is born.

In addition to the Constitutional Court ruling, there can also found the nature of this final and binding decision in resolving disputes through arbitration as stipulated in Law Number 30 of 1999 with regards to Arbitration and Alternative Dispute Resolution. The decisions regarding certain disputes are dropped by the arbitrator. The arbitrator will give his decision honestly, fairly and in accordance with the applicable provisions and the parties will accept the decision in a final and binding manner as agreed together. The arbitration is final and has permanent legal force and binds the parties. It cannot be appealed or reconsideration. This is intended to keep the dispute settlement through arbitration from dragging on. Through this arbitration, there is no open judicial appeal.

The verdict of the Constitutional Court is not the only final one, that of the Consumer Dispute Settlement Agency (BPSK) are also final as stipulated in Law No. 8 of 1999 concerning Consumer Protection. To handle and resolve consumer disputes, BPSK forms the assemblies and their decisions are also final without any appeal. However, it can be objected in the District Court no later than 14 working days after receiving the notification. The business actors who do not submit the objections within this period are considered to have accepted the BPSK decision.

Conclusion

The Party Court is an internal organ that has the authority to resolve disputes related to; management, violations of the rights of members, dismissal without concrete reasons, abuse of authority, financial liability and/or objections to decisions of political parties. Their positions are very strong because it is mandated by the Law. Its decisions are final, especially for disputes relating to management. The nature of this decision can be equated with that of the Constitutional Court, the Arbitration Board, and the Consumer Dispute Resolution Agency. But even though the nature of the decision of the Party Court was strong, there were several factors that influenced its internal resolution, resulting in protracted and lengthy fall-outs. An example is a dispute that occurred in Persatuan Pembangunan Party (PPP). The factors include: 1) Disobedience over the decision of the Party Court; 2) The government does not obey the decisions of the court with a tendency to intervene in internal problems and biased in supporting these political parties; 3) The diplomacy of the court members is doubtful considering the fact that they come from internal; 4) The court does not always consider the decisions made by the Party Court in adjudicating disputes.

Suggestion

In the future, it is hoped that the parties involved, in disputes will obey and respect the decisions of the Court. They should abide by the final decisions given by the Constitutional Court, with regards to Arbitration or the Consumer Dispute Settlement Agency. Ideally, the membership of the Party Court originates from external parties and it is necessary to strengthen their institution

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